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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,090	08/22/2003	William E. Kugler	1164-16-CIP-1	9600
22442	7590	01/10/2007		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/646,090

Applicant(s)

KUGLER ET AL.

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/19/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 2 “of said head” is indefinite. Should it be “ of said support member”?

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-10, 13-17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzon (6332292) in view of Galletti (4668119).

Buzon (figures 18-24) shows an apparatus for selectively adjusting the elevation of a building material comprising an open-ended, substantially cylindrical base (figure 18, the part of 301) having an upper end, a lower end, an exterior surface, an interior surface, a footing member (314) interconnected to a lower end of the base, the footing member having a greater diameter than the base, a first plurality of horizontally oriented ribs integrally interconnected to the interior surface of the base (the ribs on the inside of part 301, figure 18) and positioned between the upper and the lower end, an internal diameter of the base is selectively reduced in predetermined locations (per the ribs), a substantially cylindrical shaped support member (figure

Art Unit: 3637

18, the part which is connected to part 12) having an upper end, a lower end, an exterior surface, an interior surface, a second plurality of ribs depending from the outer surface of the cylindrical shaped support member, the upper end of the open ended cylindrical base is adapted to receive the lower end of the support member, a head portion (12) interconnected to the upper end of the cylindrical support member, the head portion having a geometric profile adapted for engagement with the building material to provide operable support, the base, the footing member, the support member and the head portion being comprised of at least one of a plastic, a metal, the head portion comprising at least one upwardly projecting lip/member, the footing member is integrally interconnected to the lower end of the base, the open end substantially cylindrical base is at least partially closed, the plurality of non-threaded ribs extend outwardly in a substantially perpendicular plane with respect to the longitudinal axis of the shaped base, the base having a threaded upper end, the shaped base having a threaded upper end adapted to receive a threaded portion of the support member.

Buzon does not show the support member having a second plurality of non-continuous horizontally oriented ribs depending from the outer surface, when the first and second plurality of horizontally oriented ribs are offset, the ribs of the support member are received within the first channel to permit vertical non-rotational travel, when the support member is rotated with respect to the base, the first plurality of ribs and the second plurality of ribs align to substantially prevent movement of the support member relative to the cylindrical base, a third plurality of horizontally oriented ribs integrally interconnected to the interior of the substantially cylindrical base, and offset from the first plurality of horizontal oriented ribs, each of the third plurality of horizontally oriented ribs being non-continuous having a first end and a second end thereby

Art Unit: 3637

defining a second channel, a fourth plurality of horizontally oriented ribs that depend from said outer surface of the cylindrical support member, and operably sized to engage the third plurality of horizontally oriented ribs, the first plurality of horizontally oriented ribs and the third plurality of horizontally oriented ribs are offset approximately 180 degrees, the second plurality of horizontally oriented ribs and the fourth plurality of horizontally oriented ribs are offset approximately 180 degrees.

Galletti shows a support member having a plurality of first non-continuous horizontally oriented ribs (23) of the interior surface of the base (2) having a first end and second end defining a first channel, a plurality of second non-continuous horizontally oriented ribs (10), depending from the outer surface, when the first and second plurality of horizontally oriented ribs are offset, the ribs of the support member are received within the first channel to permit vertical non-rotational travel, when the support member is rotated with respect to the base, the first plurality of ribs and the second plurality of ribs align to substantially prevent movement of the support member relative to the cylindrical base, a third plurality of horizontally oriented ribs integrally interconnected to the interior of the substantially cylindrical base, and offset from the first plurality of horizontal oriented ribs, each of the third plurality of horizontally oriented ribs being non-continuous having a first end and a second end thereby defining a second channel, a fourth plurality of horizontally oriented ribs that depend from said outer surface of the cylindrical support member, and operably sized to engage the third plurality of horizontally oriented ribs, the first plurality of horizontally oriented ribs and the third plurality of horizontally oriented ribs are offset approximately 180 degrees (the ribs on the opposite side), the second plurality of

Art Unit: 3637

horizontally oriented ribs and the fourth plurality of horizontally oriented ribs are offset approximately 180 degrees (the ribs on the opposite side).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buzon's structure to show a support member having a plurality of first non-continuous horizontally oriented ribs (23) of the interior surface of the base (2) having a first end and second end defining a first channel, a plurality of second non-continuous horizontally oriented ribs (10), depending from the outer surface, when the first and second plurality of horizontally oriented ribs are offset, the ribs of the support member are received within the first channel to permit vertical non-rotational travel, when the support member is rotated with respect to the base, the first plurality of ribs and the second plurality of ribs align to substantially prevent movement of the support member relative to the cylindrical base, a third plurality of horizontally oriented ribs integrally interconnected to the interior of the substantially cylindrical base, and offset from the first plurality of horizontal oriented ribs, each of the third plurality of horizontally oriented ribs being non-continuous having a first end and a second end thereby defining a second channel, a fourth plurality of horizontally oriented ribs that depend from said outer surface of the cylindrical support member, and operably sized to engage the third plurality of horizontally oriented ribs, the first plurality of horizontally oriented ribs and the third plurality of horizontally oriented ribs are offset approximately 180 degrees, the second plurality of horizontally oriented ribs and the fourth plurality of horizontally oriented ribs are offset approximately 180 degrees because it would allow for quick coupling of the parts together as taught by Galletti (col 1 line 23).

Art Unit: 3637

Buzon as modified shows the adjustment means able to selectively positioned to a predetermined height with vertical, non-rotational travel and subsequently rotated wherein the plurality of non-threaded circumferentially oriented ribs of the shaped base and the shape support member engage to prevent any vertical movement of the support member relative to the base.

3. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzon (6332292) in view of Galletti as applied to claim 1 above and further in view of Thorpe (3222030).

Buzon as modified shows all the claimed limitations except for the head portion having a plurality of threads on a lower end, the head portion may be selectively removed from the cylindrical shaped support.

Thorpe shows a head portion (5, 19) having a plurality of threads on a lower end to attach to the upper end of the cylindrical support member, wherein a total length of the apparatus may be selectively adjusted, the head portion may be selectively removed from the cylindrical shaped support (7).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buzon's modified structure to show the head portion having a plurality of threads on a lower end, the head portion may be selectively removed from the cylindrical shaped support because it would enable the easy adjustment and mounting of the head from the cylindrical shaped support as taught by Thorpe.

Buzon's structure as modified is able to function as claimed.

Art Unit: 3637

4. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzon (6332292) in view of Galletti as applied to claim 1 above and further in view of Oyama et al(5398466).

Buzon shows all the claimed limitations except for a locking means in operable engagement with the cylindrical base and the support member, rotation of the support member is substantially prevented with respect to the base, the locking means being a pin, a screw.

Oyama et al shows a locking means (13) locking parts in positions, the locking means being a pin, a screw.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buzon's modified structure to show a locking means in operable engagement with the cylindrical base and the support member, rotation of the support member is substantially prevented with respect to the base, the locking means being a pin, a screw because it would enable the easy locking in place of adjustable parts as taught by Oyama et al; furthermore, it is considered well known to one having ordinary skill in the art to show a locking means being a pin or screw to fixedly locking the adjustable parts together.

5. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzon (6332292) in view of Galletti (4668119).

Buzon as modified shows all the claimed limitations except for the first plurality of non-threaded circumferentially oriented ribs having a length of at least about one quarter of the shaped base.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buzon's modified structure to show the first plurality of non-threaded

Art Unit: 3637

circumferentially oriented ribs having a length of at least about one quarter of the shaped base because the length would provide for a strong supporting coupling structure as it occupies a large area of the base to provide the vertical support.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior shows different coupling designs for joined cylindrical structures.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3637

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

1/5/07



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